

## DEPARTMENT OF INDUSTRIAL RELATIONS

## DIVISION OF LABOR STANDARDS ENFORCEMENT

## LEGAL SECTION

455 Golden Gate Avenue, Room 3166  
San Francisco, CA 94102  
(415) 703-4150

H. THOMAS CADELL, JR., *Chief Counsel*



October 3, 1994

Michael J. Boylan  
Assistant General Counsel  
Safeway, Inc.  
4th & Jackson Streets  
Oakland, CA 94660

Re: Applicability of Wage Order 7-80

Dear Mr. Boylan:

The State Labor Commissioner, Victoria Bradshaw, has asked me to respond to your letter of September 9, 1994, regarding the question of whether the Manufacturing and Retail Divisions of Safeway are separate and distinct business units thereby making the Manufacturing Division subject to Order 1-89 as opposed to 7-80.

After reviewing the facts you have submitted and the policy of the Division of Labor Standards Enforcement, we conclude that the Manufacturing Division which produces bakery, meat, ice cream, dairy and grocery products for sale in the Retail Division of Safeway is separate and distinct.

As you may know, the stated Division policy is that an industry, business or establishment generally classified according to the main purpose of the business...Most large businesses conduct a variety of operations, but where they all tend to carry out a common business purpose under common general control, they are treated as one business.

The policy also looks to the question of "who the competition is" to determine applicability when a distinctly separate unit of multi-purpose companies is in issue. In a retail situation, the business' fleet of trucks, appliance installers, etc., are part of the mercantile industry under Order 7; but if the retail company owns factories producing items under its brand name, the factories are under Order 1, Manufacturing. Here the situation seems to indicate that the competition to the manufacturing of goods is with the manufacturing industry, not the retail industry. Thus, the Divisions would fall under the provisions of Order 1.

Having made this assessment, however, we fail to see how this

1994.10.03

Michael J. Boylan  
October 3, 1994  
Page 2

will be of help to you. The provisions of Order 1-89 will allow alternative workweek schedules. However, the schedule must provide not less than forty (40) hours in a week. It appears that you contemplate a workweek of less than 40 hours (i.e., 35). That would not be allowed by Order 1.

If you have any questions please feel free to contact the undersigned.

Yours truly,

H. THOMAS CADELL, JR.  
Chief Counsel

c.c. Victoria Bradshaw

1994.10.03